IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s):   Yoshiki Fujimura

Serial No.:   10/672,622

For: HOME PAGE AUTOMATIC UPDATE SYSTEM AND HOME
                       PAGE AUTOMATIC UPDATE METHOD

Filed: September 26, 2003

Examiner: Michael J. Hicks

Art Unit: 2165

Confirmation No.:   8062

Customer No.:   27,623

Attorney Docket No.:   0001494USU/2215

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF FILED UNDER 35 U.S.C. §134

Dear Sir:

Further to the Notice of Appeal filed on July 1, 2010, the period for response having been extended two (2) months up to and including November 1, 2010, the Appeal Brief filed herewith under 35 U.S.C. §134 and 37 C.F.R. §41.37 is believed to comply with the requirements set forth in 37 C.F.R. §41.37(c).

(1) Real Party in Interest

The real party in interest is Information Online, Co., Ltd. Ownership by Information Online, Co., Ltd is established by assignment document recorded for this application on September 26, 2003 on Reel 014552, Frame 0887.

(2) Related Appeals and Interferences

The undersigned attorney is not aware of any related patent applications or patents involved in any appeal or interference proceeding.

(3) Status of the Claims

Claims 1-2 and 4-7 have been cancelled. Claims 3 and 8-12 are pending in this application, and are the subject of this Appeal. Claims 8 and 12 are independent. Independent claims 8 and 12, as well as dependent claims 3 and 9-11, were finally rejected under 35 U.S.C. §103(a) over Canadian Publication No. 2303466A1 to Loen et al. (Loen) in view of U.S. Patent No. 5,937,160 to Davis et al (Davis).

(4) Status of Amendments

An Amendment after Final was filed on June 1, 2010. The Amendment after Final amended claim 8 to obviate a rejection under 35 U.S.C. §112, second paragraph.

The Advisory Action dated June 17, 2010 entered the Amendment after Final for purposes of Appeal and indicated that the entered amendment was sufficient to overcome the §112 rejection to claims 3 and 8-11.

(5) Summary of claimed subject matter

The invention set forth in independent claim 8 advantageously provides a system (1) for automatically updating a home page. The system (1) includes an update computer terminal (5, 6), a home page management server (3), and a mail server (4). The update computer terminal (5, 6) provides a content file including an advertisement content on the home page and a first identifying item, which specifies the home page, and a mail message including a second identifying item specifying the home page, a request of updating the home page and an update file. The home page management server (3) includes a processor and a memory. The home page management server (3) is connected to a user terminal (8), which is provided with a web browser and the

update computer terminal (5, 6) though a communication network (2). The home page management server (3) transmits HTML document data to the user terminal (8) to provide the home page on the user terminal (8) in response to a transmission request of transmitting the HTML document data from the web browser of the user terminal (8). The HTML document data is provided with banner data relating to the advertisement content. The mail server (4) is connected to the update computer terminal (5, 6) and the home page management server (3) though the communication network (2). The mail server (4) receives the mail message from the update computer terminal (5, 6) and stores the mail message. The home page management server (3) includes a home page database (332), a schedule database (333), a home page management unit (32a), a patrol search unit (32b), and a banner generating unit (32c). The home page database (332) stores the HTML document data and the banner data for the home page and the content files transferred from the update computer terminal (5, 6). New HTML document data is transferred from the update computer terminal (5, 6) and is stored in the home page database (332). The schedule database (333) stores schedule data including a date item which relates to an update of the advertisement contents and specifies one of the content files. The home page management unit (3) reading out the HTML document data from the home page database (331) in response to the transmission request from the web browser of the user terminal (8) and transmitting the readout HTML document data to the user terminal (8). The home page management unit (3) receives the content file from the update computer terminal (5, 6) and transfers the content file to the home page database (331). The home page management unit (3) updates the home page utilizing the HTML document data stored in the home page database (331) in response to an update request from the update computer terminal (5, 6). The patrol search unit (32b) patrols the mail server (4), the update computer terminal (5, 6), the home page database (331), and the schedule database (333), in this order, to search for the request of updating the home page, the first and second identifying items, the date item to extract the updated content files, and the updating files relating to the request of updating the home page and the first

and second identifying items, a patrol timing and a number of times that patrol is to be carried out being determined based on the order of priority for accessing the mail server (4), the home page database (331), the update computer terminal (5, 6), and the schedule database (333). The patrolling of the patrol search unit (32b) is finished after a first file is searched from the updated one of the content files and the updating files in the patrolling the mail server (4), the update computer terminal (5, 6), the home page database (332), and the schedule database (333) in the patrol order. The banner generating unit (32c) generating the banner data with utilizing the first file to update HTML document data with the banner data which is incorporated in the HTML document data with reference to the schedule data at the patrol timing. The update computer terminal (5, 6) is allowed to set the patrol timing, number of times patrol is to be carried out, and setting regarding whether or not to cause the patrol to be carried out. **See page 4, line 17 through page 6, line4 and FIGS. 1-2.**

The invention set forth in independent claim 12 advantageously provides a system (1) for automatically updating a home page. The system (1) includes a home page database (332) that stores an HTML data, a banner generation unit (32c) that generates banner HTML data, a mail server (4) that receives a mail message from an entrant. The mail message includes a first request to update the banner HTML data. The system (1) further includes an update computer terminal (5, 6), a schedule database (333), patrol search unit (32b), home page management unit (32a). The update computer terminal (5, 6) stores an update data from the entrant. The update data including a second request to update the banner HTML data. The schedule database stores schedule data relating to the banner HTML data. The patrol search unit patrols the mail server (4), the update computer terminal (5, 6), the home page database (332), and the schedule database (333), to search and extract data relating the banner HTML data. The home page management unit (32a) includes a processor and a memory. The home page management unit (32a) reads the HTML data from the home page database (332), issues a patrol search command to the patrol search unit

(32b) to search and extract data relating to the banner HTML data from the first request, the second request, and the schedule data, issues a banner generation command to the banner generation unit (32c) to generate the banner HTML data based on the data, reads the banner HTML data from the banner generation unit (32c), appends the banner HTML data to the HTML data, and transmits the HTML data with the banner HTML data appended thereto to a user terminal (8) provided with a web browser in response to a request from the web browser of the user terminal (8). **See page 4, line 17 through page 6, line4 and FIGS. 1-2.**

(6) Grounds of rejection to be reviewed on appeal

The first ground presented for review is the propriety of the final rejection of claim 8 under 35 U.S.C. §103(a) over Loen in view of Davis.

The second ground presented for review is the propriety of the rejection of claim 12 under 35 U.S.C. §103(a) over Loen in view of Davis.

(7) Arguments

(a)   First Ground - Claims 3 and 8-11 stand or fall together

Claims 3 and 8-11 were rejected under 35 U.S.C. §103(a) over Loen in view of Davis. The Final Office Action, as well as the subsequent Advisory Action, improperly rejected claims 3 and 8-11.

The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art, and (4) where in evidence, so-called secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 127 S.Ct. at 1734 ("While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.")

Appellant respectfully submits that the Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness because the Office Action has <u>failed</u> to determine the level of skill in the art.

Presuming arguendo that Loen and Davis show the elements or concepts urged by the Office Action, the Office Action has presented no line of reasoning, and we know of none, as to ***who*** one skilled in the art is or why that person viewing the collective teachings of Loen and Davis would have found it obvious to selectively pick and choose various elements and/or concepts from these references to arrive at the claimed invention.

"The examiner has left applicant and the board to guess as to the basis of the rejection... We are not good at guessing; hence, we decline to guess." Ex parte Schricker, 56 USPQ2d 1723, 1725 (BPAI 2000).

Notwithstanding the above, Appellant submits that the proposed combination fails to disclose or suggest every element recited by claim 8.

Independent claim 8 recites that the user terminal is "provided with a **web browser**" and that the home page management server transmits "HTML document data to the user terminal to provide the home page on the user terminal **in response to a transmission request of transmitting the HTML document data from the web browser** of the user terminal" (emphasis added).

The Final Office Action indicates that the "Examiner notes that the standing rejection clearly maps page 6, lines 11-18 of Loen as disclosing a user requesting HTML data (e.g. a web page) from the user terminal using a web browser". <u>See</u> page 2, lines 7-10 of the Final Office Action.

Appellant submits that the Office Action has mis-characterized the teachings of Loen and, based on this mischaracterization, the Office Action has based its conclusion of obviousness.

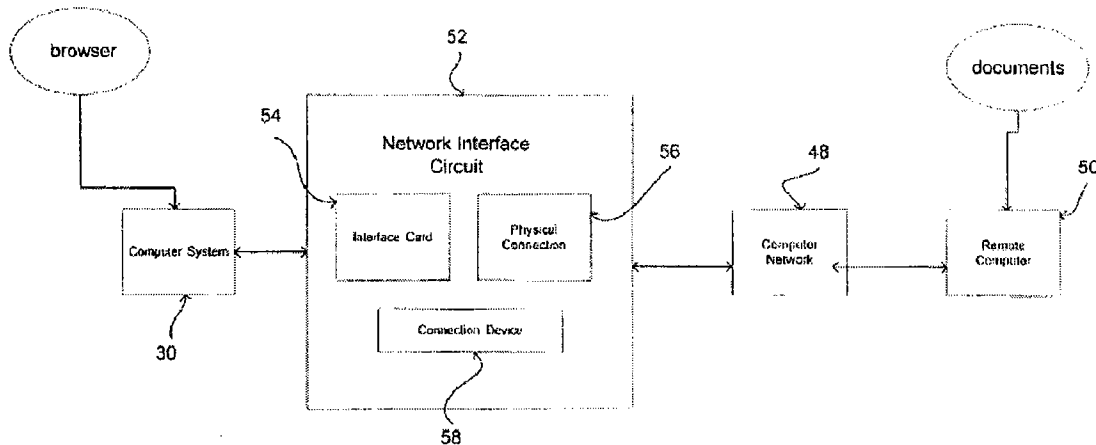For ease of analysis, Figure 2 of Loen has been reproduced below.

Figure 2

With respect to Figure 2, Loen discloses that the user computer system 30 has a browser and the web page is sent from the remote computer 50 by the request from the browser at the user computer system 39. Further, Loen also discloses that the web page is created by the remote computer 50, namely that data is sent to and from remote computer system 50 by network interface circuit 52. See page 6, lines 11-18.

The Office Action is asserting that "remote computer 50" of Loen reads on the "home page management server" recited by claim 8.

However, Loen discloses that if content in a region on a web page is changed at remote computer 50, the web page region is automatically updated at the user computer system 30 without having to republish the web page and without the user having to refresh the page. See page 9, line 27 through page 10, line 4. In other

words, Loen merely discloses that that updating the content by remote computer 50 results in the "content" being updated in the web page of the user computer system 30.

Clearly, in Loen, the remote computer 50 does not transmit "HTML document data to the user terminal to provide the home page on the user terminal **in response to a transmission request of transmitting the HTML document data from the web browser** of the user terminal" as required by the "home page management server" recited by claim 8.

In fact, Loen teaches away from requiring the transmission of the updated content "in response to a transmission request" for the browser of the user computer 30. Appellant submits that any modification of Loen that requires the transmission of a request from user computer 30 to remote computer 50 in order to obtain the updated content would render the device of Loen inoperative for its intended purpose, which requires the web page region to be automatically updated at the user computer system 30 **without** having to republish the web page and **without** the user having to refresh the page.

Davis discloses, with reference to FIG. 4, that a web page is updated when web page revisions are received in e-mail. Further, Davis discloses in FIG. 5 that web page contents are updated when an e-mail message contains a content change. However, Davis also does not cure the deficiencies discussed above with respect to Loen.

Moreover, independent claim 8, in part, requires a patrol search unit "patrolling the mail server, the update computer terminal, the home page data base and the schedule data base, in this order, to search for the request of updating the home page".

Again, Loen teaches away from the need for a request of updating a home page

and therefore simply fails to disclose or suggest the patrol unit of claim 8 that patrols the update computer terminal for such a request in the manner claimed.

Stated another way, the patrol search unit (32b) of claim 8 does not receive e-mails as in the proposed combination of Davis and Loen, but rather positively patrols the mail server (4) and the update terminal (5, 6).

Davis does not cure this deficiency of Loen.

Again, independent claim 8 further requires that the patrol search unit patrols "the mail server, the update computer terminal, the home page data base and the schedule data base **in this order**" and requires that "the patrolling of the patrol search unit is finished **after first one of files** is searched" (emphasis added).

While Loen may describe the scheduling of the web page, Appellant maintains that Loen merely discloses that the web page is updated based on the schedule in the remote computer 50. See page 14, lines 13-19.

The portions of Loen cited by the Final Office Action, namely pages 11 through 14, merely describe event triggers, which when present, result in the content of the web page being changed by changing the source file. More specifically, the event trigger "Schedule Go To" only describes jumping the schedule to a specific location and does not describe ending the patrol.

Thus, Loen only mentions that if an event trigger is generated at the browser of user computer system 30, the content of the web page is changed to other contents, the appearance of the web page is changed or is changed to another web page. These web pages and its contents are stored in the database prepared in the remote computer 50 and not at the computer system 30.

Therefore, Appellant maintains that Loen does not disclose the concept of the remote computer 50 patrolling the system in a particular order and updating the data file inside its own database in the manner recited by claim 8.

Davis also does not cure this deficiency of Loen.

Still further, independent claim 8 recites, in part, a home page management server including a processor and a memory. The Office Action acknowledges that Loen fails to disclose a home page management server. Rather, the Office Action asserts that Davis discloses the claimed server.

Appellant maintain the traversal of this assertion.

Davis discloses an Information Manager System (IMS) module. However, Davis does not disclose that the IMS module is structured by home base data base, schedule data base, home page management unit, patrol search unit and banner generating unit in the manner recited by claim 8. In particular, Davis and Loen are both silent regarding the function concerning the patrol search unit as it relates to the IMS module of Davis. Therefore, even if one were to assume that the IMS module of Davis were a "home page management server", the proposed combination of Davis and Loen still fails to disclose or suggest the combination recited by claim 8.

Accordingly, claim 8, as well as claims 3 and 9-11 that depend therefrom, are allowable over the cited art. Reconsideration and withdrawal of the rejection to claims 3 and 8-11 are respectfully requested.

(b) Second Ground – Claim 12 stands or falls alone

Claim 12 was rejected under 35 U.S.C. §103(a) over Loen in view of Davis. The

Final Office Action, as well as the subsequent Advisory Action, improperly rejected claim 12.

Again, Appellant respectfully submits that the Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness because the Office Action has <u>failed</u> to determine the level of skill in the art.

Presuming arguendo that Loen and Davis show the elements or concepts urged by the Office Action, the Office Action has presented no line of reasoning, and we know of none, as to ***who*** one skilled in the art is or why that person viewing the collective teachings of Loen and Davis would have found it obvious to selectively pick and choose various elements and/or concepts from these references to arrive at the invention of claim 12.

"The examiner has left applicant and the board to guess as to the basis of the rejection... We are not good at guessing; hence, we decline to guess." Ex parte Schricker, 56 USPQ2d 1723, 1725 (BPAI 2000).

Notwithstanding the above, Appellant submits that the proposed combination fails to disclose or suggest every element recited by claim 12.

Independent claim 12 recites a home page management unit that, **in response to a request from the web browser of the user terminal**, **reads** "the HTML data from the home page database", **issues** "a patrol search command to the patrol search unit to search and extract data relating to the banner HTML data from **the first request, the second request, and the schedule data**", **issues** "a banner generation command to the banner generation unit to generate the banner HTML data based on the data", **reads** "the banner HTML data from the banner generation unit", **appends** "the banner HTML data to the HTML data", and **transmits** "the HTML data

with the banner HTML data appended thereto to a user terminal" (emphasis added).

Appellant submits that the proposed combination of Loen and Davis fail to disclose or suggest the **home page management unit** that, in response to a **request from the web browser of the user terminal,** updates an entire web page by searching and extracting data relating to the banner HTML data from "**the first request, the second request, and the schedule data**" as recited by claim 12.

The Office Action fails to assert that Davis discloses or suggests the claimed home page management unit.

Rather, the Office Action asserts that Loen discloses the claimed home page management unit. Appellant respectfully disagrees.

Loen merely discloses that, in step 210, a Java applet in the web browser monitors the source of the content in each template region. In step 220, the browser Java applet determines if the content has changed. If yes, then in step 230, the browser Java applet parses the source code of the updated content. In step 240, the new content is downloaded from the source and reloaded into the web page region automatically. The affected region is updated on the web page without affecting the rest of the page. The web page developer can define the interval for which the browser applet updates the content from the server. This interval can be unique for each region. See page 10, lines 5-12.

Thus, Loen merely includes a Java applet in the web browser monitors the source of the content in each template region and, when the applet detects changes, updates the webpage. However, Loen fails to disclose or suggest that its Java applet can update the webpage by **searching and extracting data** from "**the first request, the second request, and the schedule data**" as recited by claim 12.
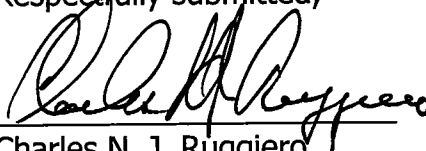
Thus, Appellant submits that claim 12 is not disclosed or suggested by the combination of Davis and Loen. Reconsideration and withdrawal of the rejection to claim 12 are respectfully requested.

Conclusion

In summary, Appellant respectfully requests that the Board of Appeals reverse the final rejections of claims 3 and 8-12, thereby enabling all of the pending claims to issue.

Respectfully submitted,

November __1__, 2010

Charles N. J. Ruggiero
Reg. No. 28,468
Attorney for Appellant(s)
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th floor
Stamford, CT 06901-2682
Tel: (203) 327-4500
Fax: (203) 327-6401

(8) Claims Appendix

Claims 3 and 8-12, herein on appeal, are set forth below.

3.   A system according to claim 8, wherein the home page management server receives the mail message in accordance with a reception process of a mail message includes a process for sending a mail transmission request to the mail server, and a reception process of a mail message from the mail server.

8.   A system for automatically updating a home page comprising:

an update computer terminal configured to provide a content file including an advertisement content on the home page and a first identifying item specifying the home page, and a mail message including a second identifying item specifying the home page, a request of updating the home page and a update file;

a home page management server including a processor and a memory, and the home page management server being connected to a user terminal provided with a web browser and the update computer terminal though a communication network, the home page management server transmitting HTML document data to the user terminal to provide the home page on the user terminal in response to a transmission request of transmitting the HTML document data from the web browser of the user terminal, the HTML document data provided with banner data relating to the advertisement content; and

a mail server connected to the update computer terminal and the home page management server though the communication network, which receives the mail message from the update computer terminal and stores the mail message;

wherein the home page management server includes:

a home page data base storing the HTML document data and the banner data for the home page and the content files transferred from the update computer terminal, new HTML document data being transferred from the update computer terminal and being stored in the home page data base;

a schedule data base storing schedule data including a date item which relates to a update of the advertisement contents and specify one of the content files;

a home page management unit reading out the HTML document data from the home page data base in response to the transmission request from the web browser of the user terminal, and transmitting the readout HTML document data to the user terminal, the home page management unit receiving the content file from the update computer terminal, and transferring the content file to the home page data base, wherein the home page management unit updates the home page utilizing the HTML document data stored in the home page data base in response to a update request from the update computer terminal;

a patrol search unit patrolling the mail server, the update computer terminal, the home page data base and the schedule data base, in this order, to search for the request of updating the home page, the first and second identifying items, the date item to extract the updated content files, and the updating files relating to the request of updating the home page and the first and second identifying items, a patrol timing and a number of times that patrol is to be carried out being determined based on the order of priority for accessing the mail server, the home page data base, the update computer terminal, and the schedule data base, the patrolling of the patrol search unit is finished after a first file is searched from the updated one of the content files and the updating files in the patrolling the mail server, the update computer terminal, the home page data base, and the schedule data base in the patrol order; and

a banner generating unit generating the banner data with utilizing the first file to update HTML document data with the banner data which is incorporated in the HTML document data with reference to the schedule data at the patrol timing;

wherein the update computer terminal is allowed to set the patrol timing, number of times patrol is to be carried out, and setting regarding whether or not to

cause the patrol to be carried out.

9.   A system according to claim 8, wherein the home page management unit extracts a updated HTML document data stored in the home page data base in accordance with a process for reading out a latest first HTML document data and a second HTML document data having an update time a predetermined period of time before the current time from the home page data base, and a process for extracting a mismatched data part of the first and second HTML document data.

10.   A system according to claim 8, wherein the patrol search unit sends a file search request through the management unit to the update computer terminal, and a reception process of an update file from the update computer terminal.

11.   A system according to claim 8, wherein the schedule database sets with a predetermined cycle period, and updates the content data associated with the schedule database, and the search process of schedule data in the schedule database includes a search process of schedule data associated with a schedule corresponding to the current time.

12.   A system for automatically updating a home page, comprising:
     a home page database storing an HTML data;
     a banner generation unit generating a banner HTML data;
     a mail server receiving a mail message from an entrant, the mail message including a first request to update the banner HTML data;
     an update computer terminal storing an update data from the entrant, the update data including a second request to update the banner HTML data;
     a schedule database storing schedule data relating to the banner HTML data;
     a patrol search unit patrolling the mail server, the update computer terminal, the home page database, and the schedule database to search and extract data relating the

banner HTML data; and

a home page management unit including a processor and a memory, the home page management unit reading the HTML data from the home page database, issuing a patrol search command to the patrol search unit to search and extract data relating to the banner HTML data from the first request, the second request, and the schedule data, issuing a banner generation command to the banner generation unit to generate the banner HTML data based on the data, reading the banner HTML data from the banner generation unit, appending the banner HTML data to the HTML data, and transmitting the HTML data with the banner HTML data appended thereto to a user terminal provided with a web browser in response to a request from the web browser of the user terminal.

(9) Evidence Appendix

None.

(10) Related Proceedings Appendix

None.